

1 NICHOLAS J. HOFFMAN (SBN 284472)

nhoffman@mcguirewoods.com

2 ARIA HANGVAL (SBN 336933)

ahangval@mcguirewoods.com

3 McGUIREWOODS LLP

4 Wells Fargo Center – South Tower

355 S. Grand Avenue, Suite 4200

5 Los Angeles, California 90071-3103

Telephone: (213) 457-9840

6 Facsimile: (213) 457-9877

7 SAMUEL L. TARRY, JR. (*pro hac vice application forthcoming*)

starry@mcguirewoods.com

8 McGUIREWOODS LLP

9 1750 Tysons Boulevard Suite 1800

Tysons, Virginia 22102-4215

10 Telephone: (703) 712-5425

11 Facsimile: (703) 712-5185

12 Attorneys for Defendant

13 ETSY, INC.

14 **UNITED STATES DISTRICT COURT**  
15 **NORTHERN DISTRICT OF CALIFORNIA**

16 AS YOU SOW, a 501(c)(3) non-profit  
17 corporation,

18 Plaintiff,

19 v.  
20

21 ETSY, INC. and DOES 1-20, inclusive,

22 Defendants.  
23  
24  
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26  
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Case No.: 24-cv-04203-SK

**DEFENDANT ETSY, INC.’S NOTICE OF  
MOTION TO DISMISS PLAINTIFF’S  
COMPLAINT FOR FAILURE TO STATE  
A CLAIM**

**Judge:** Hon. Sallie Kim

**Date:** August 26, 2024

**Time:** 9:30 a.m.

**Location:** Courtroom C, 15<sup>th</sup> Floor

1 TO THE HONORABLE CLERK OF THE UNITED STATES DISTRICT COURT OF THE  
 2 NORTHERN DISTRICT OF CALIFORNIA, PLAINTIFF AS YOU SOW, AND ITS COUNSEL  
 3 OF RECORD.

4 PLEASE TAKE NOTICE that Defendant Etsy, Inc. (“Etsy”) hereby moves for an order  
 5 dismissing each claim, allegation, statement of law, and prayer for relief asserted by Plaintiff As  
 6 You Sow in the Complaint. Etsy has simultaneously brought a Motion to Compel Arbitration before  
 7 this Court. Dkt. No. 6. If the Court does not compel the parties to arbitration, in the alternative,  
 8 Etsy hereby requests for the dismissal of Plaintiff’s Complaint in its entirety for failure to state a  
 9 claim.

10 PLEASE TAKE FURTHER NOTICE that if the Court determines a hearing is required, this  
 11 Motion will be heard at the United States District Courthouse for the Northern District of California,  
 12 San Francisco Division, located at 450 Golden Gate Avenue, San Francisco, California 94102, on  
 13 August 26, 2024 at 9:30 a.m., or at another time and location deemed appropriate by the Court.

14 This motion is brought on the authority afforded this Court by Federal Rule of Civil  
 15 Procedure 12(b)(6). As explained in Etsy’s Memorandum of Points and Authorities, among other  
 16 things, the Complaint fails as a matter of law because Plaintiff lacks authorization to sue and does  
 17 not meet the pre-suit requirements to state a claim under California Health & Safety Code § 25249.6  
 18 (“Proposition 65”).

19 This Motion is based upon this Notice of Motion, the accompanying Memorandum of Points  
 20 and Authorities and any attachments thereto, the Request for Judicial Notice, the complete record  
 21 in this action, oral argument, and any other matters this Court may properly consider.

22 DATED: July 18, 2024

Respectfully submitted,

23 McGUIREWOODS LLP

24  
 25 By: /s/ Nicholas J. Hoffman

Samuel L. Tarry, Jr. (*PHV forthcoming*)

Nicholas J. Hoffman

27 Aria Hangval

Attorneys for Defendant ETSY, INC.

**CERTIFICATE OF SERVICE**

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen years and not a party to the within action; my business address is Wells Fargo Center, South Tower, 355 S. Grand Avenue, Suite 4200, Los Angeles, California 90071-3103. On July 18, 2024, I caused the service of the foregoing document described as **DEFENDANT ETSY, INC.'S NOTICE OF MOTION TO DISMISS PLAINTIFF'S COMPLAINT FOR FAILURE TO STATE A CLAIM**, addressed as follows:

Rachel S. Doughty  
Jennifer Rae Lovko  
**GREENFIRE LAW, PC**  
2748 Adeline Street, Suite A  
Berkeley, CA 94703  
Telephone: (510) 900-9502  
Fax: (510) 900-9502  
Email: rdoughty@greenfirelaw.com  
rlovko@greenfirelaw.com

Attorneys for Plaintiff  
AS YOU SOW

☒ **BY MAIL:** I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing with the United States Postal Service. Under that practice, it would be deposited with the United States Postal Service that same day in the ordinary course of business. Such envelope(s) were placed for collection and mailing with postage thereon fully prepaid at Los Angeles, CA, on that same day following ordinary business practices.

☒ **(BY ELECTRONIC TRANSMISSION):** I caused such document to be served electronically to the person's electronic service address by transmitting a PDF format copy of such document(s) to each person at the e-mail addresses set forth above.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on July 18, 2024, at Los Angeles, California.

/s/ Miguelina Mendez  
Miguelina Mendez